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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,197	08/07/2000	Christopher W.B. Goode	DIVA 264	3493

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MOSER, PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY, NJ 07702

EXAMINER	
HUYNH, SON P	

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/633,197	GOODE, CHRISTOPHER W.B.	
	Examiner	Art Unit	
	Son P Huynh	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 October 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The previous Final Office Action has been withdrawn in view of the new ground(s) of rejection.

Claims 20-21 have been cancelled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 6-10 are rejected under 35 U.S.C. 102(e) as being anticipated Thomas Huston et al. (US 2002/0007402 A1).

Regarding claim 1, Thomas Huston (hereinafter referred to as Thomas) teaches the method comprising:

"establishing by a service provider a resource lease with each of at least one content provider, each content provider storing content within the leased resource at at least one service provider location" is met by establishing, by access provider an agreement to guarantee a minimum amount of space to at least one content provider, each content provider storing content within the allocated space at the access provider – par. 0063);
"fulfilling subscriber requests for available content stored at the at least one service provider location" is met by fulfilling subscriber requests for available content stored at the access provider – 0042);
generating usage statistics (par. 0064, par. 0067);
"providing said usage statistics to said at least one content provider" is met by informing content provider about the usage statistics (par. 0064-par. 0072);
"adjusting the content stored in said leased resource according to the at least one content provider" is met by deleting other content if necessary to guarantee a minimum space for a particular content provider or deleting old version if a new version is detected at the content provider –par. 0063).

Regarding claim 2, Thomas teaches generating service centric data (e.g. generating requests that could not be processed – par. 0065); adapting service operation according to the usage statistics and the service centric data (e.g. deleting particular content which remains in cache for a specified time without a request for the particular content – par. 0057. Additional attempts to process requests that cannot be processed may be periodically made– par. 0065-par. 0066).

Regarding claim 3, Thomas teaches generating content centric data; and providing the content centric data to the at least one content provider (e.g. generating number of content accessed, time, etc. and providing these data to the content provider – par. 0064-par. 0071).

Regarding claim 6, the claimed limitation "said leased resource is adapted in response to said usage statistics" is met by deleting particular content if it remains in cache in a specified time without a request for the particular content (par. 0056), or pre-fetch content according to a user and content specific basic (par. 0056-par. 0058).

Regarding claim 7, Thomas teaches a method as discussed in the rejection of claim 6. Thomas also discloses pre-fetch content into cache to provide preferential access to the content by client 228. Thomas further discloses deleting a particular content if it remains in cache for a specified time without a request for the particular content (par. 0056-par. 0057). As a result, the leased resource is increased or decreased in response to the usage statistics (e.g. catch space will be increased if more content is pre-fetched or decreased if the particular content is deleted).

Regarding claim 8, Thomas teaches a method comprising:

"assigning by a service provider to each of a plurality of content providers content management responsibilities for respective service provider resources" is met by assigning, by access provider to each of a plurality of content providers an agreement to guarantee a minimum amount of space that store content from the content provider – par. 0063);

"fulfilling subscriber requests for available content stored in the respective service provider resource" is met by fulfilling subscriber requests for available content stored at the access provider cache – 0042);

generating usage statistics (par. 0064, par. 0067);

"providing said usage statistics to at least one content provider" is met by informing content provider about the usage statistics (par. 0064-par. 0072);

"adjusting, in response to information provided to said content provider, content stored within said respective service provider resource" is met by deleting other content if necessary to guarantee a minimum space for a particular content provider or deleting old version if a new version is detected at the content provider –par. 0063).

Regarding claims 9-10, the claimed limitations correspond to the claimed limitations as claimed in claims 2-3, and are analyzed as discussed with respect to the rejection of claims 2-3.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3, 6-10, 13-16, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. (US 6,298,373) and in view of Thomas Huston et al. (US 2002/0007402 A1).

Regarding claim 1, Burns teaches a method, comprising:

"fulfilling subscriber requests for available content stored at at least one service provider location" is met by fulfilling subscriber requests for available content stored at service provider 56-figure 2 and col. 8, lines 24-40);

generating usage statistics (col. 8, lines 41-59);

"providing said usage statistics to said at least one content provider" is met by providing a request to the content server according to pattern results –col. 8, line 60-col. 9, 55);

adjusting the content stored in the cache according to the at least one content provider (For example, suppose that a high number of subscribers frequently request the CNN web page during morning hours. These requests translate into a high number of URL hits for the CNN web page. The CNN web page from CNN server is delivered and stored in memory of local service provider prior to the peak time- Col. 9, lines 10-67. As a result, the content stored in the cache is adjusted according to the CNN server). Burn

further discloses the local service provides communicates with content server 52 to request and stores content from content server 52 (figures 2-3). However, Burns does not specifically disclose a resource lease with each of at least one content server, each content server storing content within the leased resource at the local service provider.

Thomas Huston (hereinafter referred to as Thomas) teaches "establishing by a service provider a resource lease with each of at least one content provider, each content provider storing content within the leased resource at at least one service provider location" is met by establishing, by access provider an agreement to guarantee a minimum amount of space to at least one content provider, each content provider storing content within the allocated space at the access provider – par. 0063); Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burns to use the teaching as taught by Thomas in order to improve efficiency in utilization of storage.

Regarding claim 2, Thomas teaches generating service centric data (e.g. generating requests that could not be processed – par. 0065); adapting service operation according to the usage statistics and the service centric data (e.g. deleting particular content which remains in cache for a specified time without a request for the particular content – par. 0057. Additional attempts to process requests that cannot be processed may be periodically made– par. 0065-par. 0066).

Regarding claim 3, Thomas teaches generating content centric data; and providing the content centric data to the at least one content provider (e.g. generating number of content accessed, time, etc. and providing these data to the content provider – par. 0064-par. 0071).

Regarding claim 6, the claimed limitation "said leased resource is adapted in response to said usage statistics" is met by deleting particular content if it remains in cache in a specified time without a request for the particular content (par. 0056), or pre-fetch content according to a user and content specific basic (par. 0056-par. 0058).

Regarding claim 7, Thomas teaches a method as discussed in the rejection of claim 6. Thomas also discloses pre-fetch content into cache to provide preferential access to the content by client 228. Thomas further discloses deleting a particular content if it remains in cache for a specified time without a request for the particular content (par. 0056-par. 0057). As a result, the leased resource is increased or decreased in response to the usage statistics (e.g. catch space will be increased if more content is pre-fetched or decreased if the particular content is deleted).

Regarding claim 8, the limitations as claimed correspond to the limitations of claim 1, wherein the limitation "establishing..." in claim 1 corresponds to the limitation

"assigning..." in claim 8, and are analyzed as discussed with respect to the rejection of claim 1.

Regarding claims 9-10, the claimed limitations correspond to the claimed limitations as claimed in claims 2-3, and are analyzed as discussed with respect to the rejection of claims 2-3.

Regarding claim 13, Burns teaches an apparatus (service provider 56) coupled to a plurality of subscribers (58,62) and to content suppliers (content servers 52) (figure 2), the apparatus comprising:
a controller (local content provider) for distributing video assets (col. 8, lines 15-67);
a server complex (cache memory 124 and CMS 126) comprising a plurality of partitions (files) to store video assets provided by content server (col. 9, lines 35-65);
the content suppliers adapting content, including video assets, stored in the partitions in response to usage data provided by the controller (content server, i.e. CNN server) pre-fetching content, including audio or video data, stored in the memory 124 and CMS 126 in response to the request provided by the local service provider (col. 9, lines 10-67).
However, Burns does not specifically disclose storing content in respective partitions.

Thomas teaches receiving content from particular content provider and storing content in respective partitions (par. 0063). Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify Burns to use the teaching of Thomas in order to improve efficiency in utilization of storage.

Regarding claim 14, Thomas teaches the content suppliers provision respective server complex according to rules defined by the controller (e.g. object type, object size and object origin, i.e., from a particular content provider or domain – par. 0061-par. 0066).

Regarding claim 15, Burns teaches the rules define at least one of a navigation parameter, a promotion parameter and a packaging parameter of the video assets provided by the content suppliers (col. 10, line 47-67).

Regarding claim 16, Thomas teaches the server complex partitions are leased by the content suppliers (agreement between content provider and access provider - par. 0063).

Regarding claim 18, Thomas teaches the content suppliers (content providers) adapt the content stored in the respective partitions in response to content centric data provided by the controller (deleting old version, other data, etc. – par. 0057, par. 0063).

Regarding claim 19, the limitations of the apparatus as claimed correspond to the limitations of the method as claimed in claim 7, and are analyzed as discussed with respect to the rejection of claim 7.

6. Claims 4-5, 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. (US 6,298,373) and in view of Thomas Huston et al. (US 2002/0007402 A1) as applied to claim 1 or claim 8 above, and further in view of Carlin et al. (US 6,119,152).

Regarding claim 4, Burns in view of Thomas teaches a method as discussed in the rejection of claim 1. However, neither Burns nor Thomas specifically disclose remitting compensation to the at least one content provider in response to the usage statistics.

Carlin teaches the owner of multi-provider pay to the provider revenues received from the subscribers (col. 6, lines 30-36) reads on the claimed limitation "remitting compensation to said at least one content provider in response to the usage statistics." Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burns and Thomas to use the teaching as taught by Carlin in order to provide an alternative way to pay content provider.

Regarding claim 5, Carlin teaches the owner of the multi provider on line service subtracts its fees from the revenues received from the subscribers and pays the difference to the provider (col. 6, lines 30-36) reads on the claimed limitation "said remitted compensation is offset by the value of said lease."

Regarding claims 11-12, the limitations as claimed correspond to the limitations as claimed in claims 4-5 respectively, and are analyzed as discussed with respect to the rejection of claims 4-5.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. (US 6,298,373) and in view of Thomas Huston et al. (US 2002/0007402 A1) as applied to claim 13 above, and further in view of Martin et al. (US 6,606,607).

Regarding claim 17, Burns in view of Thomas teaches an apparatus as discussed in the rejection of claim 13. However, neither Burns nor Thomas specifically discloses auctioning.

Martin discloses system and method for coordinating an auction for an item between a multi auction services (col. 6, lines 44-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Burns and Thomas to use the teaching as taught by Martin in order to allow seller to obtain highest price of an item.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bruysteen (US 6,658,663 B1) teaches business model for leasing storage on a digital recorder.

Peters (US 6,449,688) teaches computer system and process for transferring streams of data between multiple storage units and multiple applications in a scalable and reliable manner.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son P. Huynh
November 2, 2004

CHRIS GRANT
PRIMARY EXAMINER